

108TH CONGRESS
1ST SESSION

S. 1713

To amend title IV of the Small Business Investment Act of 1958, relating to a pilot program for credit enhancement guarantees on pools of non-SBA loans.

IN THE SENATE OF THE UNITED STATES

OCTOBER 3, 2003

Ms. SNOWE (for herself, Mr. PRYOR, and Mr. BOND) introduced the following bill; which was read twice and referred to the Committee on Small Business and Entrepreneurship

A BILL

To amend title IV of the Small Business Investment Act of 1958, relating to a pilot program for credit enhancement guarantees on pools of non-SBA loans.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Small Business Credit
5 Liquidity Act of 2003”.

1 **SEC. 2. PILOT PROGRAM FOR GUARANTEES ON POOLS OF**
2 **NON-SBA LOANS.**

3 Title IV of the Small Business Investment Act of
4 1958 (15 U.S.C. 692 et seq.) is amended by adding at
5 the end the following:

6 “PART C—CREDIT ENHANCEMENT GUARANTEES

7 “SEC. 420. (a)(1) The Administration is authorized,
8 upon such terms and conditions as it may prescribe, in
9 order to encourage lenders to increase the availability of
10 small business financing by improving such lenders’ access
11 to reasonable sources of funding, to provide a credit en-
12 hancement guarantee, or commitment to guarantee, of the
13 timely payment of a portion of the principal and interest
14 on securities issued and managed by not less than 2 quali-
15 fied entities authorized and approved by the Administra-
16 tion.

17 “(2) The entities authorized under this subsection to
18 act as issuers and managers of pools or trusts of loans
19 shall be well-capitalized, as defined by the Administration,
20 and shall maintain sufficient reserves to allow securities
21 to be issued representing interests in each pool or trust
22 that are rated as investment grade by a nationally-recog-
23 nized rating agency.

24 “(3) The authority of the entities authorized under
25 this subsection shall be reviewed annually by the Adminis-

1 tration and may be renewed upon the satisfactory comple-
2 tion of such review.

3 “(4) The Administration shall set and maintain
4 standards for entities authorized under this subsection, in-
5 cluding standards relating to delinquency, default, liquida-
6 tion, and loss rates.

7 “(5) If an entity authorized under this subsection
8 fails to meet the standards set pursuant to paragraph (4),
9 the Administration may terminate the entity’s participa-
10 tion in the pilot program under this subsection.

11 “(b)(1)(A) The Administration may provide its credit
12 enhancement guarantees in respect of securities that rep-
13 resent interests in, or other obligations issued by, a trust,
14 pool, or other entity whose assets (other than the Adminis-
15 tration’s credit enhancement guarantee and credit en-
16 hancements provided by other parties) consist of loans
17 made to small business concerns.

18 “(B) As used in this paragraph, the term ‘small busi-
19 ness concern’ has the meaning given that term in either
20 the Small Business Act (15 U.S.C. 631 et seq.) or this
21 Act (15 U.S.C. 661 et seq.).

22 “(2) The credit enhancement guarantees provided by
23 the Administration under paragraph (1) shall be second-
24 loss guarantees that are only available after the full pay-
25 ment of credit enhancement guarantees offered by the en-

1 titles authorized to act as issuers and managers of pools
2 or trusts of loans under this section.

3 “(3) A pool or trust of loans shall not be eligible for
4 guarantees under this section—

5 “(A) if the value of such loans exceeds
6 \$350,000,000 in fiscal year 2004;

7 “(B) if the value of such loans exceeds
8 \$400,000,000 in fiscal year 2005; or

9 “(C) if the value of such loans exceeds
10 \$450,000,000 in fiscal year 2006.

11 “(4) All loans under paragraph (1) shall be origi-
12 nated, purchased, or assembled and managed consistent
13 with requirements prescribed by the Administration in
14 connection with this credit enhancement guarantee pro-
15 gram.

16 “(5) The Administration shall prescribe requirements
17 to be observed by the issuers and managers of the securi-
18 ties covered by credit enhancement guarantees to ensure
19 the safety and soundness of the credit enhancement guar-
20 antee program.

21 “(c) The full faith and credit of the United States
22 is pledged to the payment of all amounts the Administra-
23 tion may be required to pay as a result of credit enhance-
24 ment guarantees under this section.

1 “(d)(1) The Administration may issue credit en-
2 hancement guarantees in an amount—

3 “(A) not to exceed \$2,100,000,000 in fiscal
4 year 2004;

5 “(B) not to exceed \$3,250,000,000 in fiscal
6 year 2005; and

7 “(C) not to exceed \$4,500,000,000 in fiscal
8 year 2006.

9 “(2) The Administration shall set the percentage and
10 priority of each credit enhancement guarantee on issued
11 securities at a level not to exceed 25 percent of the value
12 of the securities so that the amount of the Administra-
13 tion’s anticipated net loss (if any) as a result of such guar-
14 antee is fully reserved in a credit subsidy account funded
15 wholly by fees collected by the Administration from the
16 issuers or managers of the pool or trust.

17 “(3) The Administration shall charge and collect a
18 fee from the issuer based on the Administration’s guaran-
19 teed amount of issued securities, and the amount of such
20 fee shall equal the estimated credit subsidy cost of the Ad-
21 ministration’s credit enhancement guarantee.

22 “(4) The fees provided for under this subsection shall
23 be adjusted annually, as necessary, by the Administration.

1 “(5) The Federal government shall not appropriate
 2 any funds to finance credit enhancement guarantees under
 3 this section.

4 “(e) REPORT AND ANALYSIS.—

5 “(1) REPORT.—

6 “(A) IN GENERAL.—During the develop-
 7 ment and implementation of the pilot program,
 8 the Administrator shall submit a report on the
 9 status of the pilot program under this section
 10 to Congress in each annual budget request and
 11 performance plan.

12 “(B) CONTENTS.—The report submitted
 13 under subparagraph (A) shall include, among
 14 other items, information about the loans in the
 15 pools or trusts, including delinquency, default,
 16 loss, and recovery rates.

17 “(2) ANALYSIS AND REPORT.—Not later than
 18 December 30, 2005, the Comptroller General shall—

19 “(A) conduct an analysis of the pilot pro-
 20 gram under this section; and

21 “(B) submit a report to Congress that con-
 22 tains a summary of the analysis conducted
 23 under subparagraph (A) and a description of
 24 any effects, not attributable to other causes, of
 25 the pilot program on the lending programs

1 under section 7(a) of the Small Business Act
 2 (15 U.S.C. 636(a)) and title V of this Act.

3 “(3) IMPLEMENTATION.—

4 “(A) REPORT.—After completing oper-
 5 ational guidelines to carry out the pilot pro-
 6 gram under this section, the Administration
 7 shall submit a report, which describes the meth-
 8 od in which the pilot program will be imple-
 9 mented, to—

10 “(i) the Committee on Small Business
 11 and Entrepreneurship of the Senate; and

12 “(ii) the Committee on Small Busi-
 13 ness of the House of Representatives.

14 “(B) TIMING.—The Administration shall
 15 not implement the pilot program under this sec-
 16 tion until the date that is 50 days after the re-
 17 port has been submitted under subparagraph
 18 (A).

19 “(f) SUNSET PROVISION.—This section shall remain
 20 in effect until September 30, 2006.”.

